

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. S-2518

PETITION OF PAUL R. SCRIBNER

OPINION OF THE BOARD

(Effective Date of Opinion: October 8, 2002)

Case No. S-2518 is an application, filed on April 25, 2002, for a special exception pursuant to Section 59-C-2.00 (Accessory Apartment) of the Zoning Ordinance to permit an existing accessory apartment.

By Resolution dated May 30, 2002, and pursuant to the authority in Section 59-A-4.125 of the Montgomery County Zoning Ordinance, the Board of Appeals referred the case to the Hearing Examiner for Montgomery County to hold a public hearing and provide written Report and Recommendation to the Board. The Hearing Examiner convened a public hearing on July 30, 2002 and issued a Report and Recommendation, dated August 30, 2002, for approval of the special exception.

On September 6, 2002, the Board received a request for Oral Argument on the Report and Recommendation from David Della Badia, an adjoining property owner. The Board heard Oral Argument on September 18, 2002, limited to the issue of parking in connection with the special exception. Paul Scribner and Gwenda Glessman presented argument in support of the petition. David Della Badia presented argument opposing installation of a driveway on the subject property.

Decision of the Board: Special exception **granted**, subject
to the conditions enumerated below.

EVIDENCE PRESENTED

1. The Board had before it the Report and Recommendation of the Hearing Examiner that the special exception be approved, with conditions.

2. The subject property is Lot 27, Block 45, Carroll Manor Addition to Takoma Park Subdivision, located at 215 Manor Circle, Takoma Park, Maryland, in the R-60 Zone .

ORAL ARGUMENT

1. Mr. Della Badia stated that he opposes the Petitioners installing a driveway in front of their house. He noted that Exhibit No. 4 in the record does not indicate a driveway in front of the house, and that the record reflects parking at the rear of the house. He argued that installation of the driveway apron will reduce on-street parking by two spaces. He further stated that on-street parking in the neighborhood is limited in the evening.

2. Mr. Scribner and Ms. Glessman stated that they removed their rear driveway because it was narrow and hazardous to use because of traffic conditions on Ethan Allen Avenue. Mr. Scribner stated that he has not experienced difficulty with on street parking in the neighborhood. The driveway the Petitioners propose is similar to seven other homes on Manor Circle, and would accommodate parking for two cars. He stated that he had discussed with Takoma Park City officials the possibility of reducing the width of the driveway apron, in order to minimize the impact on on-street parking

FINDINGS OF THE BOARD

1. The Board finds the Hearing Examiner's Report thorough and persuasive.

2. The Board finds that the record reflects findings by the Department of Housing and Community Affairs [Exhibit 19, p.6; Transcript, July 30, 2002, p.33] and by the technical staff of the Maryland National Capital Park and Planning Commission [Exhibit 17, p.2] that there is adequate on-street parking to satisfy the requirements of Section 59-G-2.00(c)(4)(ii).

3. The Board finds that even if installation of a driveway reduces on-street parking by two spaces, since the driveway itself could accommodate two cars, there will be no net loss of parking spaces.

4. The Board finds that there is no evidence in the public hearing record of inadequacy of on-street parking on Manor Circle.

5. The Board finds that the record lacks specific information about a driveway at the subject property, and that therefore, installation of a driveway will require modification of the special exception.

6. The Board finds that it can waive the one year ownership requirement of Section 59-G-2.00(b)(2) based upon the Petitioners' testimony regarding the time constraints involved with their pursuit of an adoption.

Therefore, on a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Donna L. Barron, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that in Case No. S-2518, Petition of Paul R. Scribner and Gwenda Glessman, the Board adopts the Report and Recommendation of the Hearing Examiner and grants the special exception subject to the following conditions:

1. Petitioners shall be bound by their testimony and exhibits of record, to the extent that such evidence and representations are identified in the Hearing Examiner's Report and Recommendation and in the Board's opinion granting the special exception.

2. Petitioners must make the changes required by the Department of Housing and Community Affairs as set forth in Exhibit 16, as well as those required by Takoma Park, as set forth in Exhibit 15, except to the extent that they are able to obtain valid waivers from those requirements.

3. Prior to installation of a driveway on the subject property, Petitioners must apply for a modification of the special exception.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of

Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 8th day of October, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.